

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 03rd December, 2024

FOR COMPLIANCE :

78. TP/2379/2024 P. C. Shri. Nilesh R Modi i/b Rustomji and Ginwala a/w Shri.
[Original] : Shirish Mathkar Ld. Advocate for the Petitioner
(ECHCBM0219680
2023)

1. Ld. Advocate for the Petitioner submits that petitioner has applied for Letters of Administration in respect of the unadministered property as per the 258 of the IS Act, 1925. According to the petitioners only property which is situated at Pune is left to be administered. He further submits that petitioners are not bound to pay the amount to the legatees whose names are mentioned in the second Codicil. Hence, according to the Ld. Advocate for the Petitioners, petition is restricted to the property which is left for unadministered property.

2. However, legatees are to be paid and steps to be taken to pay the legatees if legacy is not paid. Ld. Advocate for the Petitioner further submits that this authority has no power to see the implementation of the Will, but this authority only has power to issue the grant and implementation will be later act after issuance of the grant. He further submits that within 75 years no legatees have made claim and if anyone claims, then petitioners will satisfy their claim.

3. As the legacy is given under the Codicil which is also a part of the Will, therefore, if petitioners are not in a position to make a statement about the payment of legacies, then petitioners to take steps about the legacy given to the legatees.

4. In order dated 22.11.2024 in para no. 2, Section 235 of the Indian Succession Act, 1925 is mentioned as Section 239. Hence, same is corrected and read instead of Section 235. Said Order is corrected and uploaded accordingly.

5. Ld. Advocate for the petitioner submitted that vide an Order dated 23.08.2024, the Hon'ble Court is pleased to dispensed with all office objections raised by the department. Office objections stated in the paragraph no. 4 of the said order (i.e. death certificate is not produced, identity proof of

the deceased and Will does not bear the stamp number). Hence, these office objections are dispensed with by the Hon'ble Court vide said order.

6. The then Officer on 10.05.2024, while issuing first order for citation raised requisitions vide Chapter XXVI of Bombay High Court (O. S.) Rules, 1980. Ld. Advocate for the petitioner submits that these office objections are also dispensed with by the Hon'ble Court vide an Order dated 23.08.2024. Hence, adjourned for scrutiny.

7. S. O. to 09.12.2024

03.12.2024

**Officer on Special Duty,
with Testamentary Department**